

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Mark Mariano

v.

Case No. 05-cv-25-PB

Warden, NH State Prison

ORDER

Petitioner has failed to show cause as to why summary judgment should not be granted for the reasons stated in my September 5, 2005 Order. Accordingly, summary judgment is entered for the respondent with respect to all of petitioner's claims except his ineffective of assistance of counsel claim, that claim is dismissed without prejudice for failure to exhaust state court remedies.

/s/ Paul Barbadoro
Paul Barbadoro
U.S. District Judge

Date: October 13, 2005

cc: Mark Mariano, Pro se
Susan McGinnis, Esq.